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Managing Principal

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Massachusetts Department of Energy Resources
100 Cambridge Street
Boston, MA 02114

Re: Comment – RPS Class II Regulations

SJH and Company ("SJH") respectfully submits the following written comments pursuant to the request by the Massachusetts Department of Energy Resources ("DOER") for stakeholder comments on RPS Class II Regulations under the Green Communities Act ("the Act"). This comment submission will address the need to recognize anaerobic digesters as an eligible renewable technology under the Act and corresponding regulations, as well as the need to insure that a project-managing LLC can be considered an "agricultural business."

MA AGreen Energy LLC, which is comprised of twelve farmers, SJH, and seventeen collaborating partners aims to combine organic food waste and animal waste to generate electricity through anaerobic digestion. The energy produced will power the farms, sell power to the grid, as well as produce an environmentally-friendly and renewable product to sell back to the community. This endeavor will help to meet the MA RPS and GHG goals of the Commonwealth, as well as sustain the core values of rural farms.

In order for this project to be a success, via the farmers producing renewable energy for the Commonwealth, regulations and legislative language must recognize anaerobic digestion technology as a renewable energy technology. Second, the gathering of farms into an LLC, needed for scale on smaller farms and to manage a generator of renewable energy, must be supported by the definitions of "agricultural business" and "Class II net-metering facility."

Anaerobic Digestion Technology

Although anaerobic digestion technology is not currently a technology specifically covered by the Green Communities Act, it does appear to fit within Section 32(d):

> *"Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009, shall provide a minimum percentage of kilowatt-hour sales to end-use customers in the Commonwealth from Class II renewable energy generating sources." The listed renewable energy generating sources include "(7) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use and (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae."*

The anaerobic digesters operating by lease on the farms of the LLC will be converting waste from livestock and food into energy, thereby fitting into Section 32(d) of the Act.

Section 32 also contains a provision which will allow for anaerobic digestion technology to be more specifically included in the Act. Section 11F (f) states that "after conducting

administrative proceedings, the department may add technologies or technology categories to any list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas and nuclear power."

We hereby recommend that anaerobic digestion of livestock manure and other organic waste be included as a renewable energy technology under the Act. The anaerobic digestion technology provides renewable energy by converting the wastes into renewable biogas for electricity generation, and it is not "coal, oil, natural gas or nuclear power."

It is important that this technology be included in the legislation so that it may receive benefits similar to those which solar and wind power receive, and to encourage another form of renewable energy production. Additionally, converting waste to energy through anaerobic digestion has multiple benefits such as fossil fuel avoidance, greenhouse gas emissions avoidance, and the reduction of landfills with organic waste while simultaneously providing utility and distribution companies a local renewable power source to satisfy the RPS requirements.

Agricultural Business Definition

The Green Communities Act includes provisions for Class I and Class II net-metering facilities. A Class II facility is defined as "an agricultural net-metering facility, solar net metering facility, or wind net-metering facility with a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt; provided, however, that a Class II net-metering facility owned or operated by a customer which is a municipality or other governmental entity may have a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt per unit."

According to this definition, it is our understanding that the farms producing electricity by processing manure and other organic waste through anaerobic digesters installed on their property and thereafter selling excess kilowatt hours back to the grid are considered "agricultural net-metering facilities."

However, an agricultural net-metering facility is further defined as "a renewable energy generating facility operated as part of an agricultural business that generates electricity that does not have a generation capacity of more than 2 megawatts and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the business."

Although there is a definition for "agricultural net-metering facility," the Act contains no definition for "agricultural business." The agricultural net-metering facility definition in relation to this project indicates that the systems generating the electricity must be operated by an agricultural business. We want to insure that the LLC (NAICS Code 221119 rural small business) which is formed to:

1. provide the smaller farms with operational capacity in decreasing labor burden on the farmers,
2. provide additional energy expertise that the farmers may lack,
3. scale to acquire the energy and marketing contracts to sustain a business of green production, and therefore

will qualify as an "agricultural business" operating an "agricultural net-metering facility."

Without the LLC's involvement, the farms would be unable to finance the projects and lenders would be unlikely to lend to the individual farmers due to lack of expertise and equity. The LLC will also spread out the financial risk that the farms would encounter if they were to install, operate, and negotiate the sale of the digesters' products on their own. Having a group of farms within the LLC significantly increases the likelihood of project success. It is critical that the LLC be included under the definitions for "agricultural net-metering facility," "agricultural business," and "Class II net-metering facility" in order for the farms to successfully create renewable energy for the Commonwealth.

For the reasons stated above, SJH and the MA AGreen Energy LLC request that the legislature and DOER include anaerobic digester technology in the Green Communities Act, and that a project-managing LLC be considered part of the "agricultural business" definition.

Sincerely,

William Jorgenson
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